

## MEMORANDUM

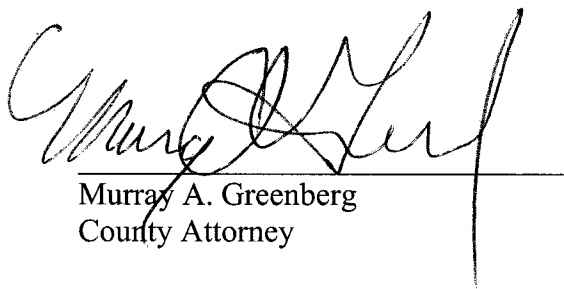
Agenda Item No 7(C)

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<b>TO:</b>	Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners	(Second Reading 05-09-06) <b>DATE:</b> March 7, 2006
<b>FROM:</b>	Murray A. Greenberg County Attorney	<b>SUBJECT:</b> Ordinance amending Section 2-8.5 of the Code making applicable to the Public Health Trust the procedure to provide local preference in county contracts

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The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Dorrin D. Rolle.



Murray A. Greenberg  
County Attorney

MAG/bw

# Memorandum



**Date:** May 9, 2006  
**To:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners  
**From:** George M. Burgess  
County Manager  
**Subject:** Ordinance Amending Section 2-8.5 of the Code of Miami-Dade County

This proposed ordinance amending Section 2-8.5 to make applicable to the County agencies, including the Public Health Trust, the procedure to provide local preference in County contracts, will not have a fiscal impact on Miami-Dade County.

  
Assistant County Manager

Fiscal00606



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:** May 9, 2006

**FROM:** Murray A. Greenberg  
County Attorney

**SUBJECT:** Agenda Item No. 7(C)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 7(C)

05-09-06

**ORDINANCE NO.** \_\_\_\_\_

**ORDINANCE AMENDING SECTION 2-8.5 OF THE  
CODE OF MIAMI-DADE COUNTY TO MAKE  
LOCAL PREFERENCE THEREOF APPLICABLE  
TO CONTRACTING OF COUNTY AGENCIES AND  
INSTRUMENTALITIES, INCLUDING THE PUBLIC  
HEALTH TRUST; PROVIDING SEVERABILITY,  
INCLUSION IN CODE AND EFFECTIVE DATE**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS  
OF MIAMI-DADE COUNTY, FLORIDA:**

Section 1. Section 2-8.5 of the Code of Miami-Dade County, Florida, is  
hereby amended as follows:<sup>1</sup>

**Sec. 2-8.5. Procedure to provide preference to local business in  
county contracts.**

**(1) *Definitions.***

(a) *General services* means support services performed by an independent contractor requiring specialized knowledge, experience, or expertise that includes, but is not limited, to pest control, janitorial, laundry, catering, security, lawn maintenance and maintenance of equipment.

(b) *Goods* includes, but is not limited to, supplies, equipment, materials and printed matter.

(c) *Local business* means the vendor has a valid occupational license issued by Miami-Dade County at least one year prior to bid or proposal submission to do business within Miami-Dade County that authorizes the business to provide the goods, services or construction to be purchased, and a physical business address

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<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are not in effect and remain unchanged.

located within the limits of Miami-Dade County from which the vendor operates or performs business. Post Office Boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In addition to the foregoing, a vendor shall not be considered a "local business" unless it contributes to the economic development and well-being of Miami-Dade County in a verifiable and measurable way. This may include, but not be limited to the retention and expansion of employment opportunities and the support and increase to the County's tax base. Vendors shall affirm in writing their compliance with the foregoing at the time of submitting their bid or proposal to be eligible for consideration as a "local business" under this section. A vendor who misrepresents the Local Preference status of its firm in a proposal or bid submitted to the County will lose the privilege to claim local preference status for a period of up to one year. The County Manager, in his discretion, may also recommend that the firm be referred for debarment in accordance with Section 2-8.4.1 of the Code of Miami-Dade County.

(d) *Professional services* includes any services where the County is obtaining advice, instruction, or specialized work from an individual, firm, or corporation specifically qualified in a particular area.

(2) *Preference in purchase of personal property, general services, professional services, the purchase of or contract for construction or renovation of public works or improvements, and in the purchase of personal property, general services or professional services by means of competitive bid, request for proposals, qualifications or other submittals and competitive negotiation and selection.* Except where federal or state law, or any other funding source, mandates to the contrary, >>Miami-Dade County and its agencies and instrumentalities, including the Public Health Trust,<< shall give preference ~~[[shall be given]]~~ to local businesses in the following manner:

(a) *Competitive bid.* When a responsive, responsible non-local business submits the lowest price bid, and the bid submitted by one or more responsive, responsible local businesses is within ten percent of the price submitted by the non-local business, then that non-local business and each of the aforementioned local businesses shall have the opportunity to submit, a best and final bid equal to or lower than the amount of the low bid previously submitted by the non-local business. Contract award shall be made to the responsive, responsible business submitting the lowest best and final bid. In the case of a tie in the best and final bid between a

local business and a non-local business, contract award shall be made to the local business.

(b) *Request for proposals, qualifications or other submittals and competitive negotiation and selection.* If, following the completion of final rankings (technical and price combined, if applicable) by the selection committee, a non-local business is the highest ranked proposer, and the ranking of a local proposer is within five percent of the ranking obtained by the non-local proposer, then the highest ranked local proposer shall have the opportunity to proceed to negotiations with the County under the applicable sections of this Code.

(c) *Professional services procured pursuant to Section 287.055, Florida Statutes.* The application of local preference to professional services procured pursuant to Section 287.055, Florida Statutes shall be in accordance with the process outlined in Section 2-10.4 of the Code of Miami-Dade County. If a tie occurs between two (2) or more local businesses, then contract award on the basis of best and final bids (paragraph (a) above), or the opportunity to proceed to negotiations (paragraph (b) above), shall be made to such local business having the greatest number of its employees that are Miami-Dade County residents.

(3) [Waiver of the application of local preference] The application of Local Preference to a particular purchase or contract for which the Board of County Commissioners is the awarding authority may be waived upon approval of the Board of County Commissioners. The application of Local Preference to a particular purchase or contract for which the County Manager is the awarding authority may be waived upon written recommendation of the Director of Procurement Management or successor and approval of the County Manager.

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(5) *Comparison of qualifications.* The preferences established herein in no way prohibit the right of the Board of County Commissioners to compare quality of materials proposed for purchase and compare qualifications, character, responsibility and fitness of all persons, firms or corporations submitting bids or proposals. Further, the preferences established herein in no way prohibit the right of the County Commission from giving any other preference permitted by law instead of the preferences granted herein.

(6) *Reciprocity.* In the event Broward, Palm Beach or Monroe County extends preferences to local businesses, Miami-Dade County may enter

into an interlocal agreement with such County wherein the preferences of this section may be extended and made available to vendors that have a valid occupational license issued by Broward, Palm Beach or Monroe County to do business in that County that authorizes the vendor to provide the goods, services, or construction to be purchased, and a physical business address located within the limits of that County. Post Office Boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In addition to the foregoing, a vendor shall not be considered a "local business" unless it contributes to the economic development and well-being of Broward, Palm Beach or Monroe County, whichever is applicable, in a verifiable and measurable way. This may include, but not be limited to, the retention and expansion of employment opportunities and the support and increase to that County's tax base. Vendors shall affirm in writing their compliance with the foregoing at the time of submitting their bid or proposal to be eligible for consideration as a "local business" under this section. In no event shall the amount of the preference accorded Broward, Palm Beach or Monroe County firms exceed the amount of preference that such County extends to Miami-Dade County firms competing for its contracts.

(7) *Exemption of certain contracts.* The provisions of this section shall not apply, and no local preference shall be accorded hereunder, to prime County or Public Health Trust construction contracts whose estimated cost is five million dollars (\$5,000,000.00) or less which have been set aside for competition solely for CSBEs (Community Small Business Enterprises) under Section 10-33.02 of this Code.

(8) ~~[[Application to Public Health Trust contracts]]~~  
 >>Implementation by certain County agencies<<. ~~[[The provisions of this Section shall be interpreted to apply to the Public Health Trust's purchases of medical and surgical supplies and purchases of medical billing service.]]~~ >>Miami-Dade County agencies and instrumentalities with the independent power to contract, such as the Public Health Trust, shall adopt rules and procedures implementing this Section. For the purposes of such rules and procedures, where this section provides the Board of County Commissioners with implementing authority, the Board of Trustees shall exercise such authority, and where this section provides the County Manager with authority, the President or Executive Director shall exercise such authority.<<

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Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained, that the provisions of this ordinance shall become and be made a part of the Code of Miami-Dade County, Florida.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:



Prepared by:



Jack P. Hartog

Sponsored by Commissioner Dorrin D. Rolle